

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JULIANNA CZERNYK,

Plaintiff / Counter-Defendant,

ORDER

-against-

21-cv-10429 (JGK) (JW)

MICHAEL BONGIOVANNI,

Defendant / Counter-Claimant.

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JENNIFER E. WILLIS, United States Magistrate Judge:

The Parties were heard in a conference on September 27, 2023. Plaintiff/Counter-Defendant asked to preclude the testimony of Dr. Miranda Rosenberg because of Defendant/Counter-Claimant's belated disclosure of the witness pursuant to Fed. R. Civ. P. 37(c)(1). Dkt. No. 68. In the alternative, Plaintiff/Counter-Defendant asked for sanctions against Defendant/Counter-Claimant pursuant to Fed. R. Civ. P. 26 requesting Defendant/Counter-Claimant pay for (i) Plaintiff's costs in retaining her own clinical psychologist, (ii) Plaintiff's costs in deposing Dr. Rosenberg, (iii) Plaintiff's costs associated with further depositions of Dr. Bardey and Dr. Rosenberg, and (iv) Plaintiff's costs associated with briefing. Dkt. No. 75.

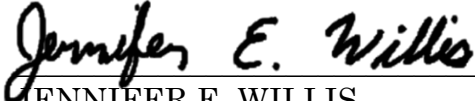
Defendant/Counter-Claimant asked to preclude the testimony of Dr. Robert Lloyd Goldstein, and suggested that Dr. Rosenberg need not be a witness in this action. Dkt. No. 71. In the alternative, Defendant/Counter-Claimant suggested that Dr. Rosenberg be permitted to testify as a fact witness or that the Court grant leave for Dr. Rosenberg to be designated as an expert witness. Dkt. Nos. 71 and 76.

For the reasons stated more fully on the record, Defendant/Counter-Claimant's motion to seal at Dkt. No. 74 was GRANTED. Plaintiff/Counter-Defendant's request to preclude was DENIED. However, the Court found that Dr. Rosenberg should be designated as an expert witness and granted the Defendant/Counter-Claimant leave to designate Dr. Rosenberg as such. Plaintiff/Counter-Defendant's request for sanctions was GRANTED in part. The Court ordered that a further deposition of Dr. Rosenberg and costs associated with such deposition were owed to Plaintiff/Counter-Defendant by Defendant/Counter-Claimant. Defendant/Counter-Claimant's request to preclude the testimony of Dr. Goldstein was DENIED. Defendant/Counter-Claimant did not articulate any meaningful prejudice resulting from the belated disclosure of Dr. Goldstein's prior history of testimony. Finally, the Court granted an extension of the expert discovery deadline for six-weeks. Expert discovery in this action will now close on **November 8, 2023**.

The Parties are directed to order a copy of the transcript from the conference and provide a copy to the Court. **The Clerk of the Court is respectfully requested to close the motions at Dkt. Nos. 68, 71, 72, 74, and 75.**

SO ORDERED.

DATED: New York, New York
September 27, 2023


JENNIFER E. WILLIS
United States Magistrate Judge